



Independent Schools
Council of Australia

Review of the Student Visa Assessment Level Framework
Submission by
The Independent Schools Council of Australia (ISCA)

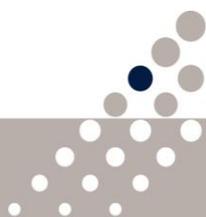
Introduction: About ISCA

The Independent Schools Council of Australia (ISCA) is the peak national body covering the independent schools sector. It comprises the eight State and Territory Associations of Independent Schools. Through these Associations, ISCA represents a sector with nearly 1,090 schools and 550,000 students, accounting for nearly 16 per cent of Australian school enrolments.

Independent schools are a diverse group of non-government schools serving a range of different communities. Many independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education. Independent schools include:

- *Schools affiliated with larger and smaller Christian denominations for example, Anglican, Catholic, Greek Orthodox, Lutheran, Uniting Church, Seventh Day Adventist and Presbyterian schools*
- *Non-denominational Christian schools*
- *Islamic schools*
- *Jewish schools*
- *Montessori schools*
- *Rudolf Steiner schools*
- *Schools constituted under specific Acts of Parliament, such as grammar schools in some states*
- *Community schools*
- *Indigenous community schools*
- *Schools that specialise in meeting the needs of students with disabilities*
- *Schools that cater for students at severe educational risk due to a range of social/emotional/behavioural and other risk factors.*

Independent schools are not-for-profit institutions founded by religious or other groups in the community and are registered with the relevant state or territory education authority. Most independent schools are set up and governed independently on an individual school basis. However, some independent schools with common aims and educational philosophies are governed and administered as systems, for example the Lutheran systems. Systemic schools account for 16 per cent of schools in the independent sector. Independent Catholic schools are a significant part of the sector, accounting for 10 per cent of the independent sector's enrolments.



Overseas students enrolled in independent schools

Approximately 42% of all overseas students enrolled in the school sector in Australia attend independent schools. In 2011 there were nearly 7,500 overseas students enrolled at 360 independent schools¹. ISCA estimates between 30-40% of all CRICOS registered providers in Australia are independent schools that are individually registered and individually responsible for meeting compliance requirements. Some schools also have ELICOS centres attached to their institutions which may also be separately registered on CRICOS.

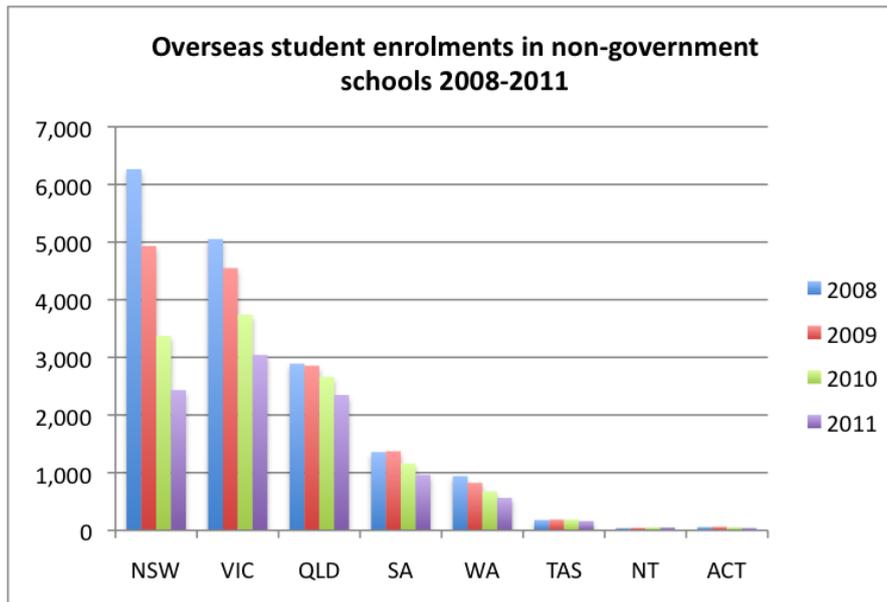
By contrast, state departments of education (enrolling approximately 54% of overseas school students overall) hold single provider registrations covering any number of state schools enrolling overseas students within a state.

Overseas student enrolments in independent schools vary from 1 to just over 250 overseas students. The median number of overseas students at an independent school is 9 students.

This profile differs quite substantially from other sectors. For the vast majority of independent schools, overseas students do not determine the school's sustainability. Rather, overseas students provide a much valued international element and diversity to school populations.

Impact of recent challenges in international education on non-government schools

Since 2008, declines in overseas student enrolments in the school sector have been most significant in non-government schools in New South Wales and Victoria, the states most affected by adverse publicity about "private" education providers in the media overseas in 2009. Declines in other states have also been experienced 2009-2011, albeit to a lesser extent, as seen in Fig. 1², below.



Apart from the impact of adverse media coverage overseas on the non-government schools sector, other factors commonly reported as influencing the rapid decline of overseas school student enrolments have been the continuing strength of the Australian dollar, and the relative ease of being granted visas to study in competitor countries.

¹ Based on DEEWR 2011 Non-government School Census Data

² Compiled from AEI 2011 International Student Data

However, ISCA has consistently identified increases in compliance burden and costs associated with gaining and maintaining CRICOS registration as significant disincentives for the large number of CRICOS registered non-government schools wishing to enrol comparatively small numbers of overseas students as part of an international engagement strategy aimed at enhancing and diversifying school programs and student cohorts.

ISCA's advocacy for international education reforms since 2009: scope, key principles and the need for consultation

ISCA recognises the need for reforms that benefit the international education “industry” as a whole, and acknowledges it has been the clear intention of government to create simpler, stronger regulatory frameworks which reduce the compliance burden and costs for the majority of registered providers.

However, the reality is, the majority of CRICOS registered non-government schools have been liable for increased regulatory charges in 2012; the introduction of the new Tuition Protection Service (TPS) will further increase the compliance burden and costs for non-government schools, and benefits of the Student Visa Program changes recommended by the Knight Review have yet to mitigate against the factors influencing the steep decline in sector enrolments.

Since August 2009, ISCA has provided nine submissions to government departments or parliamentary committees in relation to international education policies and issues.

ISCA has previously noted the following principles as key to re-shaping a viable, risk managed, international education infrastructure:

1. **Equity** for student visa applicants regardless of sector and country of origin, and for providers operating within a risk managed environment.
2. **Incentive** for students to choose Australia as a study destination and for providers to embrace low risk practices.
3. **Flexibility** for the Student Visa Program and ESOS legislation to respond quickly and with integrity to issues and challenges.
4. **Transparency** of processes based on evidence. Assessment of risk for student visa applicants and for registered providers should be based on reliable and transparent data.
5. **Simplicity** of processes for students to apply for visas and to access information.
6. **Predictability** and certainty for students as well as providers to plan for the future.
7. **Consistency** of regulatory requirements and processes for all stakeholders across all jurisdictions.
8. **Robust data** as the basis for any risk management model. Data sources must be reliable and up-to-date, and not subject to manipulation or misinterpretation. In addition, data collection methodologies should be reported and transparent.³
9. **Appeals processes** for providers and students to request review of DIAC decisions at post, and for providers to request review of CRICOS regulators' assigned levels of risk.
10. **Transitional arrangements** for changes in policy directions or implementation which have the potential to disadvantage currently enrolled students.⁴

³ For example, published in the Department of Immigration and Citizenship Annual Report, or in an annual report to education peak bodies.

⁴ *Strategic Review of the Student Visa Program*, Submission by the Independent Schools Council of Australia (ISCA), pp.9-10: <http://www.immi.gov.au/students/student-submissions/pdf/117-schools-council.pdf>

ISCA therefore strongly advocates in this submission for changes to the Assessment Level Framework for the Student Visa Program to be characterised by these principles and that benefit rather than disadvantage CRICOS registered non-government schools.

ISCA strongly believes, for the purposes of implementing reforms within the twin frameworks of ESOS and the Student Visa Program, it is critical to consult with each education sector to understand sectoral differences and characteristics when proposing and implementing legislative policies and changes to avoid unintended consequences, and ensure consistency across agencies in implementation of risk management approaches.

ISCA recommends consultation around proposed changes to the Assessment Level Framework and how changes might be operationalized in advance of implementation to determine possible unintended consequences and the potential impact on the sector.

Issues related to visa integrity that are not covered by this Review

While the focus of this Review is the Assessment Level Framework, ISCA would also like to draw attention to two further issues which impact on the overall effectiveness of the Student Visa Program and which also require remedial action:

- Monitoring compliance with visa conditions attached to student guardian visas
- Addressing bad debts, risk of overstay and other breaches of visa conditions by preventing any further enrolment in any sector after a student's enrolment has been cancelled for non-payment of fees.

16 March 2012
Canberra

ISCA's responses to Discussion Paper Questions and suggestions for managing risk within the Student Visa Program

Please see ISCA's responses to the *Review of the Student Visa Assessment Level Framework Discussion Paper Questions* below, and Appendices 1 and 2 for a possible set of criteria for risk profiling of non-government schools and a risk matrix for student visa assessments respectively.

Review of the Student Visa Assessment Level Framework Discussion Paper Questions

5.1. Given the challenges and benefits associated with individually rating all international education providers, how could such an approach be introduced?

The *Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Act 2010* required "all institutions currently registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) to undergo a risk-managed re-registration process by 31 December 2010"⁵ and a principal purpose of the *Education Services for Overseas Students Legislation Amendment Act 2011* was to introduce "a consistent risk management approach to the regulation of international education"⁵.

It would seem to be a logical starting point to align risk managed approaches for CRICOS registration of providers with a system of rating providers for the purposes of issuing student visas.

Individually rating all international education providers for visa grant purposes would allow a finely calibrated approach to management of student visa integrity issues. However, the challenge obviously lies in having the resources to effectively utilise data to track student visa and provider compliance outcomes for over 1200 registered providers.

Rather than expend limited resources on developing a new process of individually rating all international education providers, ISCA supports a sectoral approach to management of risk for the Student Visa Program as well as for CRICOS registration of providers, so that efforts of regulatory authorities can be focussed on the smaller number of providers in any sector identified by either risk profiling or data analysis as presenting a higher level of risk expected in a defined cohort.

5.2 If it is not feasible to implement such an approach in its entirety, what would be the features of an alternative and administratively feasible approach that allowed 'granularity' in identifying and managing risk? For example, could groups of providers be rated together in smaller groupings than at present, and on what criteria? Or could providers with certain characteristics be 'deemed' to be of a particular risk rating?

ISCA supports an approach to identifying and managing risk that is based on clearly defined criteria and that takes sectoral differences into account. ISCA believes it is possible to use a transparent set of criteria to identify high quality, low risk providers in each sector. Providers which can demonstrate a high degree of performance in meeting all or most of the prescribed criteria would be deemed to be "low risk".

ISCA proposes that criteria used for risk profiling should align across ESOS and Student Visa Program frameworks and should include information about providers under general categories such as:

- registration or accreditation under domestic / other quality assurance accreditation frameworks;
- receipt of government funding and subsequent accountability requirements;
- delivery of curriculum offerings under accredited frameworks;

⁵ <https://aci.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Act/Pages/default.aspx> (Downloaded 13-03-12)

- ownership and evidence of financial viability of business model;
- percentage of overseas student cohort compared to domestic student cohort;
- professional membership or affiliation with recognised or long established institutions, organisations or peak bodies;
- annual review of PRISMS reports, for example, of CoEs generated, confirmations of course start and completion dates; and
- annual review of visas refused and reasons for refusals.

Specific criteria can then developed from these categories for different sectors. Please see APPENDIX 1: *Possible criteria for risk profiling of non-government schools.*

5.3 Alternatively, if an applicant’s country and education sector continues to be used to determine risk, what should be put in place to manage the current limitations of this approach?

As noted in ISCA’s submission to the *Strategic Review of the Student Visa Program*⁶, ISCA is cognisant of the place of the Assessment Level Review within the wider context of DIAC’s initiatives, viz.,

- to simplify visa categories and processes with the aim of “improving productivity and international competitiveness by delivering fewer and simpler visa products through a more streamlined and consistent application and assessment process”⁷
- to implement “Risk Tiering” as “a strategy to further enhance risk management and integrity.”

ISCA notes in particular:

*... In order to achieve this, the department is developing new, evidence-based, automated, technical solutions to predict relative risk levels of visa applicants, based on historical data. This will enable each visa application to be assessed with a level of rigour commensurate with the perceived level of risk involved. The priority is to identify lower risk applicants to streamline visa application processing.*⁸

ISCA supports an approach based on the use of robust data to underpin visa application decision-making processes including, where possible, implementation of eVisas for all sectors.

ISCA also supports DIAC decision making processes that require more intensive scrutiny of applications to be made at post rather than onshore in order to speed up processing times, providing processes are transparent and evidence-based. This would also allow for closer monitoring of regional areas within a country which might pose a greater integrity risk from time to time.

A limitation of the current approach of using an applicant’s country and education sector to determine risk is the lack of ability to distinguish between high and low risk providers within a sector, and between high and low risk geographical areas within a country.

ISCA supports cross agency data matching combined with a sectoral approach to risk profiling to overcome limitations of a “one-size fits all” approach.

Please see APPENDIX 1 *Possible risk matrix for student visa assessments* for a possible model which allows these distinctions to be made.

⁶ Op. cit., p.3

⁷ DIAC Discussion Paper June 2010: *Simpler visas Creating a simpler framework for temporary and permanent entry to Australia* (p. 5)

⁸ Department of Immigration and Citizenship Annual Report 2009-10 (p.275)

5.4 What measures could be introduced to manage the limitations of considering risk within countries?

ISCA supports the introduction of a means by which larger countries could be considered for risk by geographical area. Of particular interest to the school sector is China, where risk levels vary widely across the country. One possible means of managing this would be a gazetted list of provinces by risk level which would be regularly reviewed.

5.5 Should the 5 AL levels be collapsed – perhaps into ‘Low’, ‘Medium’ and ‘High’ risk categories?

ISCA supports the streamlining of Assessment Levels into three categories of ‘Low’, ‘Medium’ and ‘High’ risk.

It is ISCA’s view that the number of student visa subclasses should be both in Australia’s national interests and responsive to the current and future needs of industry. However, any re-structure of the current visa regime should be underpinned by an evidence-based, risk management approach that takes into account sectoral differences.

A streamlined approach could be trialled with providers rated as “low risk” in the first instance, and refinements could be considered, such as giving “study abroad” programs of under 12 months a “low risk” rating.

5.6 Should the current AL categories be maintained, or maintained with the exception of AL5 which should be removed?

As noted above, it is ISCA’s view that three levels of risk should be sufficient to manage the risk categories. While AL5 was intended conceptually as a means of managing extreme risk, the fact that it has never been used should support its removal.

5.7 What are the merits and limitations of an approach whereby education providers certify that prospective students have appropriately robust levels of English language, rather than DIAC assessing this as part of the visa application process? If so, how should these levels be set?

ISCA supports the removal of mandated levels of English language proficiency for stand-alone ELICOS courses and for courses delivered by schools. Appropriate academic and English language prerequisites should always be determined by the school sector provider.

School providers should be able to set entry requirements which reflect the degree of support that can be provided to students. This can vary greatly from school to school.

Schools could confirm enrolment applications have been assessed and entry requirements have been met in PRISMS at the point of creating a CoE. Similarly, it can be confirmed that in PRISMS that students either have a sufficient level of English or can achieve an appropriate level of proficiency within a given timeframe, which could involve offering to package an ELICOS course with a mainstream course.

5.8 Are the recent changes to the financial requirements and the introduction of the Fraud PIC for Student visas sufficient to address concerns about fraud in financial evidence and documentation? Should they be allowed to operate for a certain period of time before this issue is re-examined? If changes to the financial requirements should be made as a result of this review of the Student visa AL framework, what changes should be made?

Given that the changes to the financial requirements were made relatively recently, it would be confusing to students if they were to be changed again so soon. Similarly the Fraud PIC is a recent change. ISCA would support monitoring the effectiveness of the changes, particularly in areas of high risk, to assess efficacy.

5.9 What are the merits and limitations in DIAC continuing to request evidence of educational qualifications?

The requirement to provide evidence of prior learning or a prescribed educational qualification is more appropriate for post-secondary studies than it is for the school sector.

The age of visa applicants is a more appropriate indicator of risk for the school sector than educational qualifications.

Schools typically have established processes to place children in appropriate year levels and to assess levels of support needed to achieve successful learning outcomes.

Decisions to accept an enrolment application from a child coming from another country are best made at a school level, based on information provided at the time of application and available school resources.

Schools currently assess enrolment applications according to entry requirements, as required by the National Code⁹, and would be able to confirm requirements have been met when creating a CoE in PRISMS.

Providing the age of the student is appropriate for the year level of the intended course, school age students should not need to provide evidence of completed studies in their home country in order to apply for enrolment in a school course in Australia, as has been the case under the waiver provisions for PR China.

5.10 Should the risk management methodology be different for countries depending upon whether they are large or small source countries or whether they are traditionally high or low risk?

Under the current Assessment Level methodology, countries with small numbers of students can have their risk rating completely skewed by the activities of one or two students. ISCA contends that all small countries should be automatically “rated up” given the size of the population concerned.

Another factor which can disproportionately affect risk ratings is the weight given to Protection Visas (PV) in the current methodology. Industry has long argued that the absolute value given to PVs was skewing the ratings for some countries, and, while it is no longer being used in that context, even in the qualitative stage, more attention needs to be paid to the behaviour of the majority of the cohort, rather than focusing on the small number of PV applications made.

With regard to traditionally high or low risk countries, any new criteria should be robust enough to apply across the board. ISCA would argue that a particular country should only ever move by one level within the risk framework so as to minimise the burden on prospective students.

5.11 What risk factors should be considered in the future framework, and what should the ratings be?

ISCA regards the following risk factors in assessing student visa applications as continuing to be of high importance:

- Health and character checks
- Ability to undertake the course (i.e. providers to confirm entry requirements have been met)
- Financials

⁹ Standard 2, National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007

However, ISCA recommends revising the requirement for requiring a Health Check for subsequent student visas within a given timeframe, as this is an additional cost to students that may not always be necessary.

As noted above, ISCA supports disaggregation of country-wide risk levels so appropriate levels of risk can be assigned to locations or geographic areas within a country if necessary.

ISCA does not support the use of English language requirements for the school sector.

5.12 Should the risk index thresholds at which cohorts are assessed as AL1, 2, 3, etc be changed?

ISCA would support more weighting to fraud and an adjustment to the weightings for visa cancellations given that recent changes mean that mandatory cancellation no longer exists.

5.13 Should the review mechanism include input from consultative fora from the international education sector, such as the EVCC?

ISCA strongly supports an overarching, cross sector and cross agency consultative mechanism which:

- is genuinely consultative;
- provides opportunities for two-way communication between government, industry peak bodies and other key stakeholders;
- supports and enhances risk management processes and decisions by providing an overlay of scrutiny of policy and regulatory changes that are needed and/or proposed;
- interacts with other “expert” industry working or advisory groups, which could include
 - DIAC Student Visa Program advisory group
 - DIAC and DEEWR/DIIRSTE Data Management working group
 - Education Visa Consultative Committee (EVCC).

5.14 What are the factors that should determine how frequently DIAC reviews risk in the Student Visa Program?

It is ISCA’s view that an annual review of the broad settings is sufficient unless there is a need to do otherwise. This is shorter than the current 2-year cycle of review but should still allow time for students to adjust to any new settings/requirements that they may be required to meet. It is important to maintain a balance between flexibility and stability in the Student Visa Program.

APPENDIX 1: Possible criteria for risk profiling of non-government schools

1. School is registered or accredited under domestic framework(s)	
State / Territory Department of Education / Board of Studies or equivalent registration authority	
ASQA	
NEAS	
Other	
2. School receives recurrent government funding	
Commonwealth government	
State government	
3. School provides data to external bodies for accountability purposes	
National Student Assessments*	
National School Reporting*	
DEEWR Financial Questionnaire*	
Annual DEEWR School Census Data collection	
Annual State / Territory School Census Data Collection	
Australian Securities and Investments Commission (if operating as a company limited by guarantee)	
*Contributes to data published on the My School website http://www.myschool.edu.au/	
4. Curriculum and certification of student outcomes is approved and delivered under domestic quality assurance frameworks	
State / Territory Department of Education / Board of Studies or equivalent registration authority	
ASQA	
NEAS	
Other	
5. School ownership is Australian and business model is viable	
Ownership details	
There is a school registration or accreditation attribute relating to financial viability	

6. Composition of student cohort	
% of domestic students comprising total student cohort in previous calendar year	
% of overseas students holding a student visa comprising total student cohort in previous calendar year (apart from students enrolled in ELICOS)	
7. Membership or affiliation with recognised bodies	
Member of a peak body	
Affiliated with a recognised organisation or institution	
Member of professional association or body	
8. Annual Review of PRISMS Reports	
Registered capacity	
Number of enrolments for ARC for previous year	
SCVs for early terminations of enrolment	
SCVs for course extensions (for failure to complete course within expected duration of study)	
9. Annual Review of Visa Rejections	
Number of visas rejected in previous year	
Reasons for visa rejections	

APPENDIX 2: Possible risk matrix for student visa assessments

1	+ 2	= 3
DIAC Level of Risk for Student Visa Category for Post / Location	Level of Risk assigned to providers	Level of evidence / scrutiny required for student visa applications
High	High	High + close monitoring
	Medium	High + period of monitoring to determine a change in rating to medium or low
	Low	
Medium	High	High + close monitoring
	Medium	Medium + period of monitoring to determine a change in rating to low
	Low	
Low	High	High + close monitoring
	Medium	Low + period of monitoring to determine a change in rating to low
	Low	Low